

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAMES L DIXIE, No C-09-2165 VRW (PR)
Plaintiff,
v ORDER OF DISMISSAL
JAMES TILTON, et al,
Defendant(s).

On May 18, 2009, plaintiff, a prisoner at Pelican Bay State Prison, filed a pro se civil rights complaint under 42 USC § 1983 alleging that the California Department of Corrections and Rehabilitation ("CDCR") and its officials had been deliberately indifferent to his serious medical needs. Specifically, plaintiff claimed he was denied dental care from July 11, 1996 to October 18, 2004 and that as a result he now has periodontal disease and tooth loss. In his complaint, plaintiff named as defendants former CDCR secretary James Tilton, former CDCR director of Prison Health Services Peter Farber-Szekrenyi, former CDCR chief dentist of Adult Operations and Programs William Kuykendali, and the CDCR itself.

1 Doc #1 at 3.

2 On July 13, 2009, the court dismissed the complaint with
3 leave to amend. Doc #5. In its order, the court noted that,
4 liberally construed, plaintiff's allegations appeared to state a
5 cognizable § 1983 claim for deliberate indifference to his serious
6 medical needs, but informed plaintiff "his complaint was deficient
7 in that he fails to set forth specific facts showing how each
8 individual defendant proximately caused the deprivation of a
9 federally-protected right." Doc #5 at 4. The court afforded
10 plaintiff thirty days in which to amend his complaint to correct the
11 pleading deficiencies. Id at 4-5.

12 On August 5, 2009, plaintiff filed a first amended
13 complaint, wherein he names only CDCR as a defendant. Like the
14 original complaint, the first amended complaint fails to set forth
15 specific facts showing how each individual defendant proximately
16 caused the deprivation of plaintiff's constitutional rights. See
17 Leer v Murphy, 844 F2d 628, 634 (9th Cir 1988); Harris v City of
18 Roseburg, 664 F2d 1121, 1125 (9th Cir 1981). As a result, the
19 action is unable to proceed.

20 //

21 //

22 //

23 //

24 //

25 //

26 //

1 For the foregoing reasons, the action is DISMISSED without
2 prejudice. The clerk is directed to terminate any pending motions
3 as moot and close the file.

4
5 IT IS SO ORDERED.

6 

7 _____
8 VAUGHN R WALKER
9 United States District Chief Judge
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

26 G:\PRO-SE\VRW\CR.09\Dixie-09-2165.order of dismissal.wpd
27
28